



## Sanctioning of human-rights activist and family via residence-permit revocation

In today's **Chamber judgment**<sup>1</sup> in the case of [Kogan and Others v. Russia](#) (application no. 54003/20) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights, and**

**a violation of Article 18 (limitation on the use of restrictions of rights) in conjunction with Article 8.**

The Court also held that the Russian Government had failed to comply with their obligations under **Article 38 (obligation to furnish the necessary facilities for the examination of a case)**.

The case concerned the revoking of a residence permit issued to a human-rights activist who was a US national, with alleged FSB involvement.

The Court found in particular that there had been gross defects in the procedure leading to the revocation, and that the main aim of the revocation had been to punish Ms Kogan and her Russian husband, Grigor Avetisyan, for their human-rights activities.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

### Principal facts

The applicants are, Vanessa Kogan, a United States (US) national who was born in 1981, Grigor Avetisyan, a Russian national who was born in 1976, and their children, joint Russian and US nationals, Aleksandr Avetisyan and Luka Avetisyan, who were born in 2014 and 2017 respectively. Ms Kogan and Grigor Avetisyan married in 2013, and lived in Moscow at the time they applied to the Court.

Ms Kogan moved to Russia in 2009 and has worked for non-governmental human-rights organisations, including the Stichting Justice Initiative and later "Astreya", helping applicants to apply to the European Court.

From 2009-14 she had job-tied residence permits; she was then given a three-year residence permit; in 2017 she was given a five-year residence permit.

In September 2020 she applied for Russian citizenship. That application was refused – allegedly as the Federal Security Service (FSB) refused to give its assent – with the authorities instead recommending that Ms Kogan's residence permit be revoked as "she posed a threat to national security". In November 2020 her residence permit was revoked and her application for citizenship rejected.

Beginning in December 2020 Ms Kogan challenged the revocation of her residence permit before the Russian courts at four levels of jurisdiction, unsuccessfully. Her arguments around FSB input being the basis of the decision were rejected by the courts. Also in December 2020 the police charged her with breaching migration regulations.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

According to Ms Kogan, she was interviewed by the FSB when she applied for her five-year residence permit and had subsequent email exchanges in that connection. In a later meeting, she allegedly was promised no issues with her residence permit in exchange for information on Astreya's activities, financing and clients.

Also according to Ms Kogan, there was alleged State interference with the work of Astreya, including, among other things, FSB contact, law-enforcement authority raids, threats.

On 14 April 2021 the applicants' lawyer informed the Court that, "given the overall pressure and ... uncertainty about [their] family's future in Russia and the threats received", on 2 April 2021 they had left Russia.

## Complaints, procedure and composition of the Court

Relying on Articles 8 (right to respect for private and family life) and 18 (limitation on use of restrictions of rights), the applicants complained that revocation of Ms Kogan's residence permit had been ordered with the aim of limiting her and Grigor Avetisyan's human-rights work.

The application was lodged with the European Court of Human Rights on 10 December 2020.

The Court's procedure for processing of applications against Russia can be found [here](#).

Judgment was given by a Chamber of seven judges, composed as follows:

Pere **Pastor Vilanova** (Andorra), *President*,  
Georgios A. **Serghides** (Cyprus),  
Yonko **Grozev** (Bulgaria),  
Jolien **Schukking** (the Netherlands),  
Darian **Pavli** (Albania),  
Peeter **Roosma** (Estonia),  
Ioannis **Ktistakis** (Greece),

and also Olga **Chernishova**, *Deputy Section Registrar*.

## Decision of the Court

### Article 8

The Court noted the national-security grounds relied on by the Government to justify the revocation of Ms Kogan's residence permit. However, the contents of the FSB report on Ms Kogan on which the decision had been based had not been made available to her or to the Court. She had therefore been unable to prepare her case before the Russian courts, which themselves had not provided clear reasons for their decision.

The proceedings as a whole had been tainted with gross procedural defects, and the authorities had therefore failed to strike a balance between the national-security concerns and Ms Kogan's rights, in violation of Article 8.

### Article 18 in conjunction with Article 8

It had been well known to the authorities that Ms Kogan had been a human-rights activist whose work would have been put at risk by the revocation of her residence permit. Her account of the events around the revocation of her residence permit – in particular FSB involvement – was detailed. Some of the FSB contact was not denied by the Government. This evidence carries weight and goes to support the evidence concerning alleged FSB interference with Astreya. The Court also identified serious issues in the procedure around Ms Kogan's residence permit, in particular the refusal to

suspend her removal from Russia while proceedings were still pending and late notification of the FSB report concerning her. The Court judged that the authorities had intended to deprive her of legal grounds to remain in Russia and so put insuperable obstacles to her challenging the relevant decision.

The Court also noted the European Union's statement that the revocation of Ms Kogan's residence permit had been nothing other than a reflection of the pressure on independent civil society in Russia.

As the interference with Ms Kogan's family life by the authorities had had the main aim of punishing her and Grigor Avetisyan for their human-rights activities, the Court concluded that there had been a violation of Article 18 in conjunction with Article 8.

### Article 38

With regard to the alleged searches of Astreya's or partner-organisation offices, the Court noted that the Government had not challenged the relevant testimony submitted or provided any relevant documents. Given this, and that other evidence submitted by the applicants, it concluded that there had been a lack of cooperation by the Russian authorities. Russia had as a result failed to comply with its obligations under Article 38 of the Convention.

### Just satisfaction (Article 41)

The Court held that Russia was to pay the applicant 9,800 euros in respect of non-pecuniary damage.

### Separate opinions

Judge Serghides expressed a concurring opinion, which is annexed to the judgment.

*The judgment is available only in English.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.